

JUDGE RAMOS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

NORTH JERSEY MEDIA GROUP INC.,

13 CV 7153

Plaintiff, :

-against-

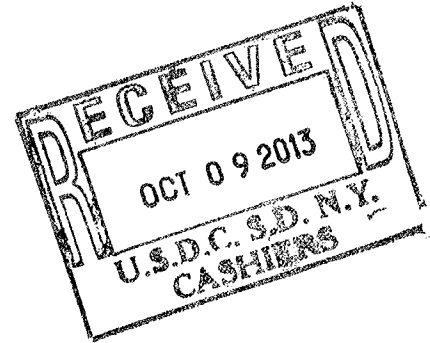
: 13 Civ.

JEANINE PIRRO,

:

Defendant. :

-----x



COMPLAINT AND JURY DEMAND

Plaintiff North Jersey Media Group Inc. ("NJMG"), by its undersigned attorneys, for its complaint against defendants Jeanine Pirro ("Pirro"), alleges:

Nature of the Action

1. NJMG is bringing this action to enforce the copyright in its iconic photograph of three firefighters raising the American flag at the ruins of the World Trade Center site on September 11, 2001 (the "WTC Flag Raising Photograph").

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over the claim in this action pursuant to 28 U.S.C. §§ 1331 and 1338 because it arises under the Copyright Act, 17 U.S.C. § 101.

3. Upon information and belief, venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(a).

4. Pirro is subject to the personal jurisdiction of this Court. Upon information and belief, Pirro is a domiciliary of this State and therefore subject to jurisdiction pursuant to C.P.L.R. § 301. In addition, Pirro is subject to the personal jurisdiction of this Court pursuant to C.P.L.R. § 302(a) because she has committed a tortious act within this State or has committed a tortious act outside this State that, upon information and belief, has caused injury within this State, and because (a) she expects or should reasonably expect the act of using the WTC Flag Raising Photograph on her web page to have consequences in this State, with respect to promotion of her television show or otherwise, and (b) because she derives substantial revenue from interstate commerce as a result of her job as a television personality.

Parties

5. NJMG is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business in Woodland Park, New Jersey. NJMG is engaged in the business of news reporting.

6. It publishes two daily publications, *The Record* and *Herald News*, which have a daily circulation of approximately 151,000 and a Sunday circulation of approximately 175,000. It publishes more than forty weekly community newspapers, which have a combined circulation of approximately 630,000. It publishes

twelve magazines, which have a circulation of approximately 350,000. It publishes two websites, www.northjersey.com, and www.Bergen.com, which have approximately 11.5 million and 750,000 page views per month, respectively.

7. Upon information and belief, Pirro is a natural person who appears weekly on the Fox News Channel's program "Justice with Judge Jeanine" and conducts business at 1221 Avenue of the Americas, New York, New York 10020.

NJMG's Copyright

8. On or about September 11, 2001, an employee of NJMG, acting within the scope of his employment, took the WTC Flag Raising Photograph, a copy of which is annexed as Exhibit A. The WTC Flag Raising Photograph has become an iconic image that has received international attention. Because an employee of NJMG took the WTC Flag Raising Photograph while acting within the scope of his employment, it is a "work made for hire" as defined by § 101 of the Copyright Act. NJMG is therefore the sole owner of the copyright in the WTC Flag Raising Photograph.

Pirro's Infringing Acts

9. Pirro has, without permission, posted a copy of the WTC Flag Raising Photograph on her web page www.facebook.com/judgejeaninepirro, a copy of which is annexed as Exhibit B.

10. On or about September 12, 2013, NJMG, through its counsel, notified Pirro of the infringement by sending a letter by e-mail to justice@foxnews.com and by priority overnight mail to her business address in this District.

11. Pirro removed the WTC Flag Raising Photograph from her web page on or about September 16, 2013, but has not otherwise responded to NJMG's letter.

CLAIM FOR RELIEF
(Copyright Infringement - 17 U.S.C. § 501)

12. NJMG repeats the allegations in paragraphs 1 through 11 as if set forth in full.

13. NJMG owns, registered and received the United States Certificate of Copyright Registration No. VA 1-014-297 for the WTC Flag Raising Photograph ("WTC Flag Raising Copyright"). A copy of the certificate is annexed as Exhibit C.

14. NJMG's WTC Flag Raising Copyright is valid and enforceable.

15. Pirro has infringed NJMG's WTC Flag Raising Copyright in violation of 17 U.S.C. § 501 by using it to promote the "Justice with Judge Jeanine" television program. Specifically, the web page, www.facebook.com/judgejeaninepirro, advertised "Justice with Judge Jeanine" and informed the public when, and on which channel, the program airs.

16. Pirro's acts have irreparably damaged and, unless enjoined, will continue to irreparably damage NJMG. NJMG has no adequate remedy at law for these wrongs and injuries. NJMG is, therefore, entitled to a preliminary and permanent injunction restraining and enjoining Pirro and her agents, servants, employees, and attorneys and all persons acting in concert with them, from infringing NJMG's WTC Flag Raising Copyright.

17. Pirro willfully infringed NJMG's WTC Flag Raising Copyright.

18. NJMG is entitled to recover damages sustained as a result of Pirro's unlawful conduct including Pirro's profits, or alternatively at NJMG's election, statutory damages.

WHEREFORE, NJMG demands judgment:

A. Preliminarily and permanently enjoining Pirro, her agents, servants, employees, and attorneys and all those acting in concert with them from infringing NJMG's WTC Flag Raising Copyright in violation of 17 U.S.C. § 501;

B. Awarding NJMG its damages or Pirro's profits, or alternatively, at NJMG's election, statutory damages, as a result of Pirro's infringement of NJMG's WTC Flag Raising Copyright;

C. Awarding NJMG its costs in this action, including its reasonable attorneys' fees pursuant 17 U.S.C. § 505; and

D. Granting such other and further relief as to this Court seems just and proper.

Jury Trial Demand

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, NJMG hereby demands a trial by jury of all issues that are so triable.

Dated: New York, New York
October 8, 2013

DUNNEGAN & SCILEPPI LLC

By William Dunnegan
William Dunnegan (WD0415)
wd@dunnegan.com
Benjamin D. Liebowitz (BL1723)
bl@dunnegan.com
Attorneys for Plaintiff
North Jersey Media Group Inc.
350 Fifth Avenue
New York, New York 10118
(212) 332-8300